

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

FILED	LODGED
RECEIVED	COPY
5	JAN 11 2013
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY	DEPUTY

William Leonard Pickard )

Defendant )

v. )

Department of Justice ) Case No. 11-cv-00443 (DCB)

Defendant )

PLAINTIFF'S EXHIBITS OF DEFENDANT'S ANSWERS TO REQUESTS FOR  
ADMISSIONS (F.R.Civ.P. 56(c))

Comes now Plaintiff William Leonard Pickard, pro se, in this  
"Plaintiff's Exhibits of Defendant's Answers to Requests for  
Admissions," to advise the Court as follows:

1. Plaintiff hereby appends Defendant's answers to Request for  
Admissions, in support of Plaintiff's accompanying  
Opposition/Cross Motion to Defendant's Motion for Summary  
Judgment.

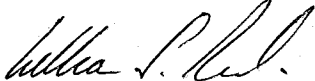
2. These exhibits are filed in accord with F.R.Civ.P 56(c),  
concerning "answers to interrogatories and admissions on  
file"; and requiring moving party to identify "portions of the  
record on file"; see Celotex Corp. v. Catrett, 477 U.S. 317,  
322-24, 106 S.Ct. 2548, 91 L.Ed. 2d 265 (1986).

3. Appended as Exhibit A are the following sets of Defendant's Answers and Objections to Requests for Admissions:

- a. First Set of Requests for Admissions
- b. Second Set of Requests for Admissions
- c. Third Set of Requests for Admissions
- d. Fourth Set of Requests for Admissions

WHEREFORE, Plaintiff submits Defendant's answers to Requests for Admissions in accord with F.R.Civ.P. 56(c) and in support of Plaintiff's accompanying Opposition/Cross Motion submitted on this date.

Respectfully submitted,



William L. Pickard

FRN 82687011

POB 24550

Tucson, AZ 85734

January 2, 2013

EXHIBIT A

1 ANN BIRMINGHAM SCHEEL  
Acting United States Attorney  
2 District of Arizona  
J. COLE HERNANDEZ  
3 Assistant United States Attorney  
Arizona State Bar No. 018802  
4 405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040  
5 Telephone: (520) 620-7300  
Fax: (520) 620-7138  
6 [cole.hernandez@usdoj.gov](mailto:cole.hernandez@usdoj.gov)  
Attorneys for Defendant  
7

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF ARIZONA

10  
11 William Leonard Pickard,  
12 Plaintiff,  
13 v.  
14 Department of Justice,  
15 Defendant.

CV-11-443-TUC-DCB

DEFENDANT'S ANSWERS AND  
OBJECTIONS TO PLAINTIFF'S  
REQUESTS FOR ADMISSIONS

16  
17 COMES NOW Defendant, by and through undersigned counsel, and submits its  
18 answers and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.

19 REQUEST NO. 1

20 Admit that DEA's search did not locate any DEA Agents Manual subsection 6612.13  
21 ("Risk Assessment Defined") that existed prior to the June 28, 2001 revision of the DEA  
22 Agents Manual that inserted by "Supplemental Transmission" subsection 6612.13 into the  
23 DEA Agents Manual version labeled "01-03 Agents Manual 6-28-01" (see p. 1 of July 1,  
24 2011 DEA FOIA release).

25  
26 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant  
27 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there  
28

1 might exist any other records possibly responsive to the request, but rather whether the  
2 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*  
3 *FDA*, 45 F.3d 1325, 1328 (9<sup>th</sup> Cir. 1995.) Plaintiff's request goes to the results of the  
4 search rather than the method (reasonableness) of the search. Subject to the forgoing  
5 objection, admit.  
6

7 REQUEST NO. 2

8 Admit that DEA's search did not locate any interim policy concerning DEA Agents  
9 Manual subsection 6612.13 (labeled "Risk Assessment Defined") that was disseminated to  
10 field offices by teletype, cable, memoranda, email or other directives or methods prior to  
11 the June 28, 2001 revision of the DEA Agents Manual that inserted by "Supplemental  
12 Transmission" subsection 6612.13 into the DEA Agents Manual version labeled "01-3  
13 Agents Manual 6-28-0111 (see p. 1 of July 1, 2011 DEA FOIA release).  
14

15 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant  
16 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there  
17 might exist any other records possibly responsive to the request, but rather whether the  
18 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*  
19 *FDA*, 45 F.3d 1325, 1328 (9<sup>th</sup> Cir. 1995.) Plaintiff's request goes to the results of the  
20 search rather than the method (reasonableness) of the search. Subject to the forgoing  
21 objection, admit.  
22  
23  
24  
25  
26  
27  
28

1 REQUEST NO. 3

2 Admit that DEA's search did not locate any DEA Agents Manual subsection 6612.32  
3 (labeled "Risk Assessment") prior to the June 28, 2001 revision of the DEA Agents  
4 Manual that inserted by "Supplemental Transmission" subsection 6612.32 into the DEA  
5 Agents Manual version labeled "01-3 Agents Manual 6-28-01" (see p. 1 of July 1, 2011  
6 DEA FOIA release).  
7

8 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant  
9 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there  
10 might exist any other records possibly responsive to the request, but rather whether the  
11 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*  
12 *FDA*, 45 F.3d 1325, 1328 (9<sup>th</sup> Cir. 1995.) Plaintiff's request goes to the results of the  
13 search rather than the method (reasonableness) of the search. Subject to the forgoing  
14 objection, admit.  
15

16  
17 REQUEST NO. 4

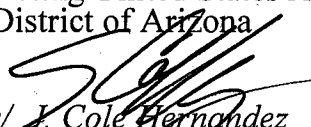
18 Admit that DEA's search did not locate any interim policy concerning subsection 6612.32  
19 ("Risk Assessment") that was disseminated to field offices by teletype, cable, memoranda,  
20 email or other directives or method prior to the June 28, 2001 revision of the DEA Agents  
21 Manual that inserted by "Supplemental Transmission" subsection 6612.13 into the DEA  
22 Agents Manual version labeled "01-3 Agents Manual 6-28-01" (see p. 1 of July 1, 2011  
23 DEA FOIA release).  
24

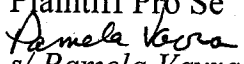
25  
26 RESPONSE: Defendant objects to this request for admission to the extent it is irrelevant  
27 to the underlying issue in this FOIA case. In a FOIA case, the issue is not whether there  
28

1 might exist any other records possibly responsive to the request, but rather whether the  
2 search for responsive records was reasonable. *Citizens Comm'n on Human Rights v.*  
3 *FDA*, 45 F.3d 1325, 1328 (9<sup>th</sup> Cir. 1995.) Plaintiff's request goes to the results of the  
4 search rather than the method (reasonableness) of the search. Subject to the forgoing  
5 objection, admit.  
6

7 Respectfully submitted this 29<sup>th</sup> day of May, 2012.  
8

9 ANN BIRMINGHAM SCHEEL  
10 Acting United States Attorney  
District of Arizona

11   
12 s/ J. Cole Hernandez  
J. COLE HERNANDEZ  
Assistant U.S. Attorney

13 William Leonard Pickard  
14 #82687-011  
15 U.S. Penitentiary - Tucson  
16 P.O. Box 24550  
Tucson, AZ 85734  
17 Plaintiff Pro Se  
  
s/ Pamela Vavra

1 JOHN S. LEONARDO  
United States Attorney  
2 District of Arizona  
GERALD S. FRANK  
3 Assistant United States Attorney  
Arizona State Bar No. 003545  
4 405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040  
5 Telephone: (520) 620-7300  
Fax: (520) 620-7138  
6 [gerry.frank@usdoj.gov](mailto:gerry.frank@usdoj.gov)  
Attorneys for Defendant  
7

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF ARIZONA  
10

11 William Leonard Pickard,  
12 Plaintiff,

13 v.

14 Department of Justice,  
15 Defendant.

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWERS AND  
OBJECTIONS TO PLAINTIFF'S  
SECOND SET OF ADMISSIONS**

16 COMES NOW Defendant, by and through undersigned counsel, and submits its answers  
17 and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.  
18

19 REQUEST NO. 1

20 Admit that the DEA FOIA release of July 1, 2011 did not include: a. sections B, C, D and  
21 E between pp. 9-10 ("02-02 Agents Manual dated "4-24-02"); b. the Table of Contents for  
22 the June 28, 2001 DEA Agents Manual revision and referring to subsection 6612.13; and  
23 c. the Table of Contents for the April 28, 2002 revision of the DEA Agents Manual and  
referring to subsection 6612.13.

24 **RESPONSE:** Admitted.

25 REQUEST NO. 2

26 Admit that DEA field offices, by regulation, directive, interim policy, practice or  
27 procedure did not conduct risk assessments in compliance with DEA Agents Manual  
28 subsection 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") in the



1 period between the September 10, 1998 revision and the June 28, 2001 revision of the  
2 DEA Agents Manual.

3 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it  
4 seeks information that is not relevant to any claim or defense, and is not reasonably likely  
5 to lead to the discovery of admissible evidence.

6 (2). Defendant also objects on the basis that this request for admission is overly  
7 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
8 require the canvassing of every investigator assigned to every DEA field office and every  
9 confidential source file maintained by the office.

10 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an  
11 answer is required, denied.

12 REQUEST NO. 3

13 Admit that DEA conducts risk assessments in compliance with DEA Agents Manual  
14 subsection 6612.13 ("Risk Assessment Defined")) at the time the Confidential Source is  
15 first considered for establishment and is reviewed by higher authorities until establishment  
16 is approved (see subsection 6612.13).

17 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it  
18 seeks information that is not relevant to any claim or defense, and is not reasonably likely  
19 to lead to the discovery of admissible evidence.

20 (2). Defendant also objects on the basis that this request for admission is overly  
21 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
22 require the canvassing of every investigator assigned to every DEA field office and every  
23 confidential source file maintained by the office.

24 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an  
25 answer is required, denied.

26 REQUEST NO. 4

27 Admit that DEA does not conduct risk assessments in compliance with subsection  
28 6612.13 ("Risk Assessment Defined") and subsection 6612.32 ("Risk Assessment") after  
the initial establishment of the Confidential Source "unless information is received that  
alters the balance of the risk and benefit" of utilizing the Confidential Source (see  
subsection 6612.13).

1 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it  
2 seeks information that is not relevant to any claim or defense, and is not reasonably likely  
3 to lead to the discovery of admissible evidence.

4 (2). Defendant also objects on that basis that this request for admission is overly  
5 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
6 require the canvassing of every investigator assigned to every DEA field office and every  
7 confidential source file maintained by the office.

8 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an  
9 answer is required, denied.

10 REQUEST NO. 5

11 Admit that risk assessments in compliance with subsection 6612.13 ("Risk Assessment  
12 Defined") and 6612.32 ("Risk Assessment") are not conducted after deactivation of the  
13 Confidential Source unless the Confidential Source is formally proposed for reactivation.

14 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it  
15 seeks information that is not relevant to any claim or defense, and is not reasonably likely  
16 to lead to the discovery of admissible evidence.

17 (2). Defendant also objects on the basis that this request for admission is overly  
18 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
19 require the canvassing of every investigator assigned to every DEA field office and every  
20 confidential source file maintained by the office.

21 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an  
22 answer is required, denied.

23 REQUEST NO. 6

24 Admit that the DEA FOIA release of July 1, 2011, while including the August 22, 2006  
25 teletype and interim policy regarding the new DEA form 512(A) ("Risk Assessment"), did  
26 not include records of any field offices or divisions responsive to the FOIA request for the  
27 "specific form and formatting utilized or required for compliance with section 6612.13  
28 and the risk assessment factors" (see SAC, Doc. 53, pgr. 63) prior to the interim policy of  
August 22, 2006.

**RESPONSE:** Admitted that the DEA release did not include any records of any field  
office or division. To the remainder, the request for admission calls for legal conclusions  
for which no answer is required. To the extent that an answer is required, denied.

REQUEST NO. 7

1 Admit that DEA - in response to the FOIA request for "Any and all" records pertaining to  
 2 the "implementation and use" of DEA Agents Manual subsection 6612.13 including "but  
 3 not limited to" (listing specific categories a-c) (see SAC, Doc. 53, pgr. 8) - did not search  
 4 for records of any field offices or divisions pertaining to any Confidential Source, e.g. the  
 "implementation and use" of subsection 6612.13 of the specific informant described in the  
 Second Amended Complaint (SAC, Id. at pgr. 5a-c).

5 **OBJECTIONS:** (1). Defendant objects to this request for admission on the basis that it  
 6 seeks information that is not relevant, and not likely to lead to the discovery of admissible  
 7 evidence.

8 (2). Defendant also objects on the basis that this request for admission is overly  
 9 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
 require the canvassing of every investigator assigned to every DEA field office and every  
 confidential source file maintained by the office.

10 **RESPONSE:** Notwithstanding and without waiving these objections, admitted.

11  
 12 REQUEST NO. 8

13 Admit that it is DEA's contention that the FOIA release for "Any and all records [] " is  
 14 overbroad, and would require a search of all field offices for all records of cases in which  
 15 a risk assessment in compliance with the DEA Agents Manual subsections 6612.13 ("Risk  
 16 Assessment Defined") and 6612.32 ("Risk Assessment") was conducted during the  
 establishment of a Confidential Source.

17 **RESPONSE:** Denied.

18  
 19 REQUEST NO. 9

20 Admit that on August 18, 2011 and again on May 29, 2011 Plaintiff submitted letters to  
 21 AUSAs Gonzalez and Frank, respectively, requesting stipulations and requesting a  
 22 narrowing of the search to the San Francisco field office and the Confidential Source  
 described in the Second Amended Complaint (SAC, rd. at pgr. 5a-c).

23 **RESPONSE:** Insufficient information is available to answer at this time.

24  
 25 REQUEST NO. 10

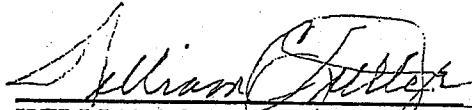
26 Admit that agents of the San Francisco DEA office conducted a risk assessment in  
 27 compliance with subsection 6612.13 of the DEA Agents Manual prior to the June 28,  
 28 2001 revision of the DEA Agents Manual to first include section 6612.13 ("Risk  
 Assessment Defined").

1 **OBJECTIONS:** (1). Defendant objects to the request for admission on the basis that it  
2 seeks information that is not relevant, and not likely to lead to the discovery of admissible  
evidence.

3 (2). Defendant also objects on that basis that this request for admission is overly  
4 broad and unduly burdensome, in that to acquire sufficient knowledge to respond would  
5 require the canvassing of every investigator assigned to every DEA field office and every  
confidential source file maintained by the office.

6 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an  
7 answer is required, denied.

8  
9 The above responses to Plaintiff's admissions are true and correct to the best of my  
10 knowledge and belief.

11  
12   
13 WILLIAM C. LITTLE, JR., ESQ.  
14 Office of Chief Counsel, Administrative  
Law Section, Drug Enforcement  
Administration

15 Respectfully submitted this 27<sup>th</sup> day of July, 2012.

16  
17 JOHN S. LEONARDO  
18 United States Attorney  
District of Arizona

19  
20 s/ Gerald S. Frank  
GERALD S. FRANK  
Assistant U.S. Attorney

21 Copy of the foregoing served electronically or  
22 By other means this 27<sup>th</sup> day of July, 2012, to:

23 William Leonard Pickard  
24 #82687-011  
25 U.S. Penitentiary - Tucson  
P.O. Box 24550  
Tucson, AZ 85734  
Plaintiff Pro Se

26 s/ Lisa Startup  
27  
28

1 JOHN S. LEONARDO  
United States Attorney  
2 District of Arizona  
GERALD S. FRANK  
3 Assistant United States Attorney  
Arizona State Bar No. 003545  
4 405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040  
5 Telephone: (520) 620-7300  
Fax: (520) 620-7138  
6 [gerry.frank@usdoj.gov](mailto:gerry.frank@usdoj.gov)  
Attorneys for Defendant  
7

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF ARIZONA

10  
11 William Leonard Pickard,  
12 Plaintiff,  
13 v.  
14 Department of Justice,  
15 Defendant.

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWER TO  
REQUEST NO. 9 OF PLAINTIFF'S  
SECOND SET OF ADMISSIONS**

16 COMES NOW Defendant, by and through undersigned counsel, and submits its  
17 answers and objections to Plaintiff's request for admissions pursuant to Fed. R. Civ. P. 36.  
18

19 REQUEST NO. 9

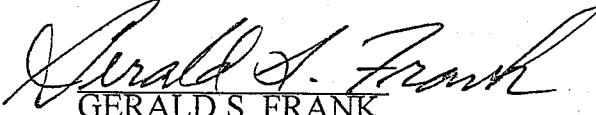
20 Admit that on August 18, 2011 and again on May 29, 2011 Plaintiff submitted letters to  
21 AUSAs Gonzalez and Frank, respectively, requesting stipulations and requesting a  
22 narrowing of the search to the San Francisco field office and the Confidential Source  
described in the Second Amended Complaint (SAC, rd. at pgr. Sa-c).

23 **RESPONSE:**

24 Deny. Admit that a letter dated August 18, 2011, to Mr. Hernandez was received  
25 on or about August 22, 2011, and a letter to Mr. Frank dated June 28, 2012, was received  
26 on or about July 3, 2012. Each letter included requests for stipulations and the narrowing  
27 of the search.  
28

1 Respectfully submitted this 27<sup>th</sup> day of July, 2012.

2  
3 JOHN S. LEONARDO  
4 United States Attorney  
5 District of Arizona

6   
7 GERALD S. FRANK  
8 Assistant U.S. Attorney

9 Copy of the foregoing served by U.S. Mail  
10 this 27<sup>th</sup> day of July, 2012, to:

11 William Leonard Pickard  
12 #82687-011  
13 U.S. Penitentiary - Tucson  
14 P.O. Box 24550  
15 Tucson, AZ 85734  
16 Plaintiff Pro Se  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 JOHN S. LEONARDO  
United States Attorney  
2 District of Arizona  
GERALD S. FRANK  
3 Assistant United States Attorney  
Arizona State Bar No. 003545  
4 405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040  
5 Telephone: (520) 620-7300  
Fax: (520) 620-7138  
6 gerry.frank@usdoj.gov  
Attorneys for Defendant  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 WILLIAM LEONARD PICKARD,

12 Plaintiff,

13 v.  
14

15 DEPARTMENT OF JUSTICE,

16 Defendant.  
17

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWERS AND  
OBJECTIONS TO PLAINTIFF'S  
THIRD REQUESTS FOR  
ADMISSIONS**

18 COMES NOW Defendant, by and through undersigned counsel, and submits its answers  
19 and objections to Plaintiff's third request for admissions pursuant to Fed. R. Civ. P. 36.  
20

21 REQUEST NO. 1:

22 Admit that "risk assessments" in accord with DEA Agents Manual subsections 6612.13 ("Risk  
23 Assessment Defined") and 6612.32 ("Risk Assessment") are maintained in field office records  
24 systems.

25 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
26 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
27 discovery of any admissible evidence.  
28

1 **RESPONSE:** Admit.

2  
3 REQUEST NO. 2:

4  
5 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections  
6 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained  
7 in DEA HQ records systems.

8  
9 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
10 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
11 discovery of any admissible evidence.

12  
13 **RESPONSE:** Admit.

14  
15 REQUEST NO. 3:

16  
17 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections  
18 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained  
19 in Confidential Sources System (CSS) records.

20  
21 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
22 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
23 discovery of any admissible evidence.

24  
25 **RESPONSE:** Admit.



1 REQUEST NO. 4:

2  
3 Admit that copies of "risk assessments" in accord with DEA Agents Manual subsections  
4 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment") are maintained -  
5 in the event of issues involving misconduct - in DEA's Planning and Inspection Division  
6 or the Office of Professional Responsibility records systems.  
7

8 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
9 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
10 discovery of any admissible evidence.  
11

12 **RESPONSE:** Admit.  
13

14 REQUEST NO. 5:

15  
16 Admit that changes in the DEA Agents Manual regarding DEA Agents Manual  
17 subsections 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment")  
18 were promulgated to field offices by fax, email or other directives other than by  
19 "Transmission" or "Supplemental Transmission" after the September 10, 1998  
20 "Supplemental Transmittal" ("Transmittal Number: 98-8") and before the June 28, 2001  
21 "Supplemental Transmittal" ("Transmittal Number: 01-3").  
22  
23

24 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
25 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
26 discovery of any admissible evidence.  
27  
28

1 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent an answer is  
2 required, denied. Changes to the DEA Agents Manual are promulgated to field office by any  
3 means that insures receipt of the "Supplemental Transmission" including fax or e-mail.

4 "Supplemental Transmittal" is the titled of the cover sheet that is used by DEA to identify the  
5 change(s) being made for records management purposes.

6  
7 REQUEST NO. 6:

8  
9 Admit that - while DEA responded to Request for Admissions (Set No.2, Requests 2, 3, 4, 5, 7,  
10 10) by objecting in part that acquiring "sufficient knowledge to respond would require the  
11 canvassing of every investigator assigned to every DEA field office and every confidential  
12 source file maintained by the office" - it is DEA's contention that, unless ordered to do so by  
13 this Court - it will not contact any field office or special agent or search any single Confidential  
14 Source file in response to any discovery request, or request for stipulations pertaining to the  
15 FOIA request of April 7, 2010 (Req. NO. 10-0068-F) for "any and all" records pertaining to the  
16 "implementation and use" of DEA Agents Manual section 6612.13, even though specific records  
17 were cited in the discovery requests, in the Second Amended Complaint (Doc. 53, pgr. 5.a-c, p.  
18 2-3) and in letters from Plaintiff to opposing counsel dated May 29, 2012 and June 28, 2012 and  
19 faxed on July 3, 2012.  
20

21  
22 **RESPONSE:** This request for admissions is argumentative and requires no response. The  
23 extent a response is required, it is denied.

24  
25 REQUEST NO. 7:

26  
27 Admit that DEA's failure to provide missing records in the FOIA release as admitted in  
28 Defendant's response to Request for Admissions (Set 2, Request No.1) constitutes an

1 inadequate search.

2 **RESPONSE:** Denied.

3  
4 REQUEST NO. 8:

5  
6 Admit that an interim policy citing DEA Agents Manual subsections 6612.13 ("Risk Assessment  
7 Defined") and 6612.32 ("Risk Assessment") was sent to field offices or divisions by teletype,  
8 cable, memoranda, Transmission, Supplemental Transmission or other directive after the  
9 September 10, 1998 revision of the DEA Agents Manual and before the June 28, 2001 revision.  
10

11 **OBJECCIÓN:** (1) Defendant objects to this request for admissions on the basis that it seeks  
12 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
13 discovery of any admissible evidence.  
14

15 **RESPONSE:** Denied  
16

17  
18 REQUEST NO. 9:

19  
20 Admit that no interim policy citing DEA Agents Manual subsections 6612.13 ("Risk  
21 Assessment Defined") and 6612.32 ("Risk Assessment") was sent to field offices or divisions by  
22 teletype, cable, memoranda, Transmission, Supplemental Transmission or other directive after  
23 the September 10, 1998 revision of the DEA Agents Manual and before the June 28, 2001  
24 revision.  
25

26 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
27 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
28 discovery of any admissible evidence.

1 **RESPONSE:** Notwithstanding and without waiving these objections, affiant has insufficient  
2 knowledge to admit or deny. To the extent an answer is required, denied.

3  
4 REQUEST NO. 10:

5  
6 Admit that Document 72 in Pickard v. DOJ (Case NO. 11-CV-00443-DCB) (D. Arizona) ("First  
7 Declaration of William Leonard Pickard) contains as Exhibit 1 an authenticated copy of a  
8 document entered in the proceedings of United States v. Pickard (5:00-cr-40104-RDR) (D.  
9 Kansas) as Document 584 and which contains as a Government exhibit the DEA Agents Manual  
10 section 6612 ("Confidential Sources") as revised on September 10, 1998.

11  
12 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seeks  
13 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
14 discovery of any admissible evidence.

15  
16 **RESPONSE:** Denied. Defendant admits that Plaintiff filed in this matter a copy of Document  
17 584 filed in the District of Kansas in Case No. 5:00-CR-40104-RDR, the fifth page of which  
18 bears a clerks' certification of electronic filing. The document following 584 is a copy of  
19 Document 584-2 consisting of 46 of 47 pages of Subchapter 661, Information Sources which  
20 includes, 6612 Confidential Sources of the DEA Agents manual, 09/10/98. Page 18 of Doc. 584-  
21 2 is missing.

22  
23  
24 REQUEST NO. 11:

25  
26 Admit that in the authenticated Document described in Request No. 10 (the Government exhibit  
27 of the DEA Agents Manual section 6612 ("Confidential Sources") as revised on September 10,  
28 1998) there is no "risk assessment" or "eleven risk Factors" in accord with DEA Agents Manual

1 subsections 6612.13 ("Risk Assessment Defined") and 6612.32 ("Risk Assessment").  
2

3 **OBJECTION:** (1) Defendant objects to this request for admissions on the basis that it seek  
4 information that is not relevant to any claim or defense, and not reasonably likely to lead to the  
5 discovery of any admissible evidence. Moreover, the request is argumentative inasmuch as the  
6 content of the document speaks for itself.  
7

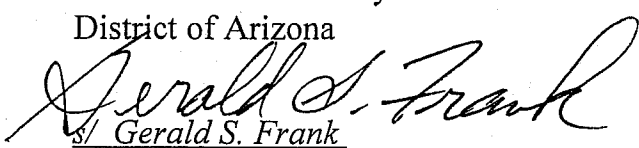
8 **RESPONSE:** Notwithstanding and without waiving these objections, to the extent that DEA  
9 Agents Manual section 6612 ("Confidential Sources") was revised by "Supplemental  
10 Transmittal" on September 10, 1998), admit.  
11

12  
13 The above responses to Plaintiff's Request for Admissions are true and correct to the best  
14 of my knowledge and belief.  
15

16  
17 WILLIAM C. LITTLE, JR., ESQ.  
18 Office of Chief Counsel,  
19 Administrative Law Section, Drug  
Enforcement Administration

20 Respectfully submitted this      day of September, 2012.  
21

22 JOHN S. LEONARDO  
23 United States Attorney  
24 District of Arizona

25   
26 s/ Gerald S. Frank  
27 GERALD S. FRANK  
28 Assistant U.S. Attorney

1 Copy of the foregoing served by U. S. mail  
2 this day of September, 2012, to:

3 William Leonard Pickard  
4 #82687-011  
5 U.S. Penitentiary - Tucson  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 JOHN S. LEONARDO  
United States Attorney  
2 District of Arizona  
GERALD S. FRANK  
3 Assistant United States Attorney  
Arizona State Bar No. 003545  
4 405 W. Congress Street, Suite 4800  
Tucson, AZ 85701-5040  
5 Telephone: (520) 620-7300  
Fax: (520) 620-7138  
6 gerry.frank@usdoj.gov  
7 Attorneys for Defendant

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 WILLIAM LEONARD PICKARD,

12 Plaintiff,

13 v.  
14

15 DEPARTMENT OF JUSTICE,

16 Defendant.  
17

CV-11-443-TUC-DCB

**DEFENDANT'S ANSWERS AND  
OBJECTIONS TO PLAINTIFF'S  
FOURTH REQUESTS FOR  
ADMISSIONS**

18  
19 COMES NOW Defendant, by and through undersigned counsel, and submits its answers  
20 and objections to Plaintiff's third request for admissions pursuant to Fed. R. Civ. P. 36.  
21

22 REQUEST NO. 1:

23 Admit Gordon Todd Skinner (CS-01-101938) has been officially confirmed as an informant in  
24 accord with 5 USC 552(c) (2) (See Pickard v. DOJ, 653 F.3d 782 (9th Cir. July 27, 2011)).  
25

26 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
27 information regarding a confidential source that is privileged.  
28 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not

1 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
2 admissible evidence.

3  
4 **RESPONSE:** Admit that an individual by the name of Gordon Todd Skinner has been officially  
5 confirmed as an informant in accord with 5 USC 552(c) (2) (See Pickard v. DOJ, 653 F.3d 782  
6 (9th Cir. July 27, 2011). Deny that the confidential source identifying number CS-01-101938 has  
7 been officially confirmed as informant number in accord with 5 USC 552(c) (2).  
8

9 **REQUEST NO. 2:**  
10

11 Admit that San Francisco DEA agents ASAC Lowrey Leong and G/S Steven Horn - as noted in  
12 the Second Amended Complaint in Pickard v. DOJ (11-CV-00443-DCB, D. Arizona, Doc. 53,  
13 pgr.5.a-c, p. 2-3) - conducted a "risk assessment" in "compliance with DEA Agents Manual  
14 section 6612.13" on an informant, in this instance Gordon Todd Skinner (CS-01-101938) as  
15 referred to in district court decisions citing the "risk assessment file (RA file)" and "Confidential  
16 Source file (CS file" in United States v. Pickard (5:00-cr-40104-RDR) (D. Kansas, 2003) (and  
17 see reference to Kansas district court copy of Skinner's "confidential informant file" in Pickard v.  
18 DOJ, 653 F.3d 782 (9th Cir. July 27, 2011).  
19  
20

21 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
22 information regarding a confidential source that is privileged.  
23 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
24 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
25 admissible evidence.  
26

27 **RESPONSE:** None at this time.  
28



REQUEST NO. 3:

Admit that San Francisco DEA agent Karl Nichols provided Skinner's "CI File" containing a "risk assessment" to AUSA Gregory Hough on or about March 3-4, 2001 for sealing by the United States District Court in the District of Kansas in United States v. Pickard (5:00-40401-RDR) (See March 3, 2003 colloquy, Id., Doc. 657, p. 4-7; and see Transcript, March 3, 2003 CR 4:11-24, 5:20, 6:4, 7:4, 8:23; and see March 4, 2003 CR 93:12, In 11-25).

**OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to information regarding a confidential source that is privileged.

(2) Defendant objects to this interrogatory on the basis that it seeks information that is not relevant to any claim or defense, and not reasonably likely to lead to the discovery of any admissible evidence.

**RESPONSE:** None at this time.

REQUEST NO. 4:

Admit that copies of the sealed "CI File" containing the "risk assessment" were made available for examination by defense counsel without a protective order preventing dissemination in United States v. Pickard (5:00-40401-RDR) (D. Kansas, 2003) (see Id., Doc. 657 describing in detail contents of "CI File" containing "risk assessment"; and see Id., Order, Doc. 588, August 15, 2008 noting provision of file to defense counsel).

**OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to information regarding a confidential source that is privileged.

(2) Defendant objects to this interrogatory on the basis that it seeks information that is not relevant to any claim or defense, and not reasonably likely to lead to the discovery of any admissible evidence.

**RESPONSE:** None at this time.

1  
2 REQUEST NO. 5:  
3

4 Admit that - although the Second Amended Complaint in Pickard v. DOJ (11-CV-00443-DCB,  
5 D. Arizona, Doc. 53, pgr. 5.a-c, p. 2-3) referred to a specific "risk assessment" conducted in the  
6 San Francisco DEA office, and Plaintiff's letters of May 29, 2012 and May 31, 2012 and fax of  
7 July 3, 2012 included a request for stipulations for narrowing of the search for "any and all"  
8 records pertaining to the "implementation and use" of DEA Agents Manual section 6612.13 to  
9 only the records of the informant Gordon Todd Skinner (CS-01-101938) - it is DEA's contention  
10 that it will not respond to the request for stipulations or search for records of Gordon Todd  
11 Skinner in the absence of a Court order compelling the search.  
12

13 **RESPONSE:** None at this time.  
14

15  
16 REQUEST NO. 6:  
17

18 Admit that Gordon Todd Skinner (CS-01-101938) was established as an informant between the  
19 October 19, 2000 signing of the DEA Confidential Source Agreement Form and the January 19,  
20 2001 Quarterly Management Review (see sealed district court "cr File" containing the "risk  
assessment"; and see DEA records).

21 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
22 information regarding a confidential source that is privileged.  
23 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
24 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
25 admissible evidence.  
26

27 **RESPONSE:** None at this time.  
28

1 REQUEST NO. 7:

2  
3 Admit the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA  
4 Agents Manual section 6612.13 was conducted during his establishment as an informant and  
5 before his assignment of the CS number (CS-01-101938).

6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
10 admissible evidence.

11  
12 **RESPONSE:** None at this time.

13  
14  
15 REQUEST NO. 8:

16  
17 Admit Skinner's "risk assessment" in accord with DEA Agents Manual 6612.13 was conducted  
18 before January 19, 2001.

19 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
20 information regarding a confidential source that is privileged.

21 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
22 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
23 admissible evidence.

24  
25 **RESPONSE:** None at this time.  
26  
27  
28

1 REQUEST NO. 9.

2  
3 Admit that the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA  
4 Agents Manual section 6612.13 was conducted after the January 19, 2001 Quarterly Management  
5 Review and before Skinner's deactivation on June 27, 2001 (See CS File No. CS-01-101938,  
6 titled "Cooperating Source" and Block 10, "Re: Deactivation of CS-01-101938).

7 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
8 information regarding a confidential source that is privileged.

9 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
10 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
11 admissible evidence.

12 **RESPONSE:** None at this time.  
13  
14

15 REQUEST NO. 10:  
16

17  
18 Admit the "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with DEA  
19 Agents Manual section 6612.13 was conducted by ASAC Lowrey Leong and G/S Steven Horn.

20 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
21 information regarding a confidential source that is privileged.

22 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
23 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
24 admissible evidence.

25  
26 **RESPONSE:** None at this time.  
27  
28

1 REQUEST NO. 11:

2  
3 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with  
4 DEA Agents Manual section 6612.13 was prepared prior to his establishment as CS-01-101938.

5  
6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
10 admissible evidence.

11  
12 **RESPONSE:** None at this time.

13  
14  
15 REQUEST NO. 12:

16  
17 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with  
18 DEA Agents Manual section 6612.13 was prepared after his establishment as CS-01-101938 but  
19 before his deactivation on June 27, 2001.

20 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
21 information regarding a confidential source that is privileged.

22 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
23 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
24 admissible evidence.

25  
26 **RESPONSE:** None at this time.  
27  
28

1 REQUEST NO. 13.

2  
3 Admit the written "risk assessment" of Gordon Todd Skinner (CS-01-101938) in accord with  
4 DEA Agents Manual section 6612.13 was prepared after his deactivation as an informant on June  
5 27, 2001.

6 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
7 information regarding a confidential source that is privileged.

8 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
9 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
10 admissible evidence.

11  
12 **RESPONSE:** None at this time.

13  
14  
15 REQUEST NO. 14:

16  
17 Admit that "risk assessments" in accord with DEA Agents Manual section 6612.13 after the first  
18 revision of the DEA Agents Manual on June 28, 2001 do not contain among the listed factors any  
19 factor described as "Individual's Social Status."

20  
21 **RESPONSE:** Admit.

22  
23 REQUEST NO. 15:

24  
25 Admit that the "risk assessment" sealed by the district court in United States v. Pickard (5: 00-  
26 40401-RDR) (D. Kansas, 2003) is an authentic "risk assessment" prepared during the  
27 establishment of Gordon Todd Skinner (CS-01-101938) as an informant between the signing of  
28 the Confidential Source Agreement Form on October 19, 2000 and the first Quarterly  
Management Review of January 19, 2001 (see Id., Doc. 657 describing in detail contents of "CI  
File" containing "risk assessment").

1 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
2 information regarding a confidential source that is privileged.  
3

4 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
5 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
6 admissible evidence.

7  
8 **RESPONSE:** None at this time.

9  
10 **REQUEST NO. 16:**  
11

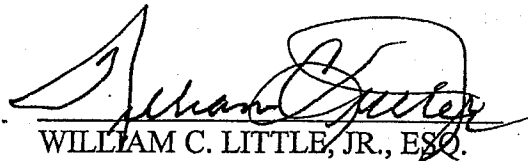
12 Admit that the "risk assessment" sealed by the district court in United States v. Pickard (5:00-  
13 40401-RDR) (D. Kansas, 2003) is not an authentic "risk assessment" prepared during the  
14 establishment of Gordon Todd Skinner (CS-01-101938) as an informant between the signing of  
15 the Confidential Source Agreement Form on October 19, 2000 and the first Quarterly  
Management Review of January 19, 2001 (see Id., Doc. 657 describing in detail contents of "CI  
File" containing "risk assessment").

16 **OBJECTION:** (1) Defendant objects to this interrogatory on the basis that it relates to  
17 information regarding a confidential source that is privileged.

18 (2) Defendant objects to this interrogatory on the basis that it seeks information that is not  
19 relevant to any claim or defense, and not reasonably likely to lead to the discovery of any  
20 admissible evidence.  
21

22 **RESPONSE:** None at this time.  
23

24  
25 The above responses to Plaintiff's Interrogatories are true and correct to the best of my  
26 knowledge and belief.  
27  
28

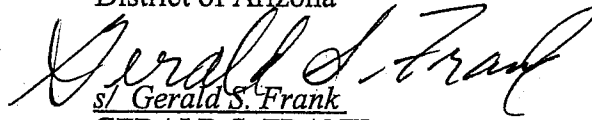
  
WILLIAM C. LITTLE, JR., ESQ.

Office of Chief Counsel,  
Administrative Law Section, Drug  
Enforcement Administration

Respectfully submitted this <sup>24th</sup> day of September, 2012.

JOHN S. LEONARDO

United States Attorney  
District of Arizona

  
s/ Gerald S. Frank  
GERALD S. FRANK  
Assistant U.S. Attorney

Copy of the foregoing served by U. S. mail  
this ~~27th~~ day of ~~October~~ <sup>September</sup>, 2012, to:

William Leonard Pickard  
#82687-011  
U.S. Penitentiary - Tucson



CERTIFICATE OF SERVICE

I hereby certify that on January 2, 2013 I placed into institutional mail first class postage prepaid the attached "Plaintiff's Exhibits ..." addressed to the Clerk of Court, United States District Court, 405 W. Congress St., Tucson, AZ 85734 and a copy to AUSA Gerald Frank, USAO at the same address.

(signed)

A handwritten signature in cursive script, appearing to read "William Leonard Pickard".

William Leonard Pickard